

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANTHONY J. BANTA,

Plaintiff,

v.

FOUR WALNUT CREEK POLICE OFFICERS,

Defendant.

No. C13-342 CRB

**ORDER DIRECTING OFFER OF PROOF
ON EXPERT TESTIMONY OF ROGER
CLARK**

The Court held a pre-trial hearing in this case on August 30, 2016. See Minute Entry (dkt. 109). All motions in limine save one were resolved on the record—Defendants’ Motion in Limine Four. See Mot. (dkt 94). Defendants argue that Plaintiffs’ police procedures expert, Roger Clark, lacks a proper basis for his opinions and that his testimony invades the province of the jury.¹ See id.

In light of this dispute, the Court ORDERS Plaintiffs to submit a detailed offer of proof, in the form of a declaration authored by Clark, setting forth his proposed testimony with respect to liability on the individual claims against the Defendant Officers here—his opinions related to Plaintiffs’ Monell claims have been excluded from this stage of the trial. The Court FURTHER ORDERS that Clark limit his declaration to the contents of the initial expert report he filed in accordance with this Court’s Standing Order and FRCP 26. The

¹ “[E]xpert testimony concerning an ultimate issue is not per se improper,” but “an expert witness cannot give an opinion as to her legal conclusion, i.e., an opinion on an ultimate issue of law.” See Hangarter v. Provident Life & Acc. Ins. Co., 373 F.3d 998, 1016 (9th Cir. 2004)

1 declaration must be filed no later than the date on which Plaintiffs submit their offers of
2 proof for the witnesses they intend to call in their case in chief.

3 **IT IS SO ORDERED.**

4
5 Dated: August 31, 2016



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE